

SUBCHAPTER D : DISCOVERY

§80.151. Discovery Generally

Discovery shall be conducted according to the Texas Rules of Civil Procedure, unless commission rules provide or the judge orders otherwise. The Rules of Civil Procedure shall be interpreted consistently with this chapter, the Texas Water Code, the Texas Health and Safety Code, and the APA. Drafts of prefiled testimony are not discoverable.

Adopted May 8, 1996
Derived from §337.7

Effective June 6, 1996

§80.153. Issuance of Subpoena or Commission to Take Deposition.

(a) Upon proper request by a party, the judge shall issue subpoenas and commissions to take depositions according to the APA. A request for issuance shall be filed with the chief clerk, and a copy shall be served on the judge and the parties.

(b) Before seeking issuance of either a subpoena or commission, the requestor shall attempt to secure voluntary appearance of the witness or production of materials. If this is not possible, the requestor shall indicate what circumstances prevent such voluntary appearance or production in the request.

(c) If the requestor and witness sign an Agreement to Waive Fee form, subpoenas and commissions may be issued without a witness fee deposit. Only a non-party witness or deponent is entitled to receive this fee.

(d) If the witness fee is not waived, the requestor shall make the witness fee deposit in the appropriate amount as indicated on the forms requesting issuance. This amount is based on an estimate of the mileage to be traveled to and from the hearing or deposition, if over 25 miles, and days expected to be spent in the hearing or deposition. This deposit should be made payable to the commission and should be filed with chief clerk and must be made before issuance of the subpoena or commission.

(e) Upon deposit of all necessary monies and completion of all forms, the subpoena or commission shall be issued to the requestor to effect service.

Adopted May 8, 1996
Derived from §265.84

Effective June 6, 1996

§80.155. Form of Subpoena.

The heading of the subpoena shall be "The State Office of Administrative Hearings." It shall state the style of the hearing, that the hearing is pending before SOAH, the time and place at which the

witness is required to appear, and the party at whose insistence the witness is summoned. It shall be signed by the judge, but need not be under the seal of SOAH and the date of issuance shall be noted thereon. It may be made returnable forthwith, or on any date for which hearing of the docketed matter may be set. It shall be addressed to any sheriff or constable of the State of Texas or other person authorized to serve subpoenas as provided in Rule 178, Texas Rules of Civil Procedure.

Adopted May 8, 1996
Derived from §265.85

Effective June 6, 1996

Adoption of §§80.151, 80.153, 80.155
Date Adopted: May 8, 1996
Date Filed with the Secretary of State: May 16, 1996
Date Published in the *Texas Register*: May 28, 1996
Date Effective: June 6, 1996

Derivation Table
Chapter 80 - Contested Case Hearing
Subchapter D : Discovery

This table is to be used to track sections after rule revisions. The column on the left should list the sections after the revision. The column on the right should list where the section was prior to the revision.

New Section	Old Section
80.151	337.37
80.153	265.84
80.155	265.85